

House Engrossed

State of Arizona
House of Representatives
Forty-seventh Legislature
First Regular Session
2005

CHAPTER 80

HOUSE BILL 2343

AN ACT

AMENDING SECTIONS 28-2003, 28-2154, 28-2154.01 AND 42-5061, ARIZONA REVISED
STATUTES; RELATING TO VEHICLE REGISTRATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 28-2003, Arizona Revised Statutes, is amended to read:

28-2003. Fees; vehicle title and registration; identification plate; definition

A. The following fees are required:

1. For each certificate of title, salvage certificate of title, restored salvage certificate of title or nonrepairable vehicle certificate of title, four dollars.

2. For each certificate of title for a mobile home, seven dollars. The director shall deposit three dollars of each fee imposed by this paragraph in the state highway fund established by section 28-6991.

3. For the registration of a motor vehicle, eight dollars, except that the fee for motorcycles is nine dollars.

4. For a duplicate registration card or any duplicate permit, four dollars.

5. For each special ~~thirty~~ NINETY day nonresident registration issued under section 28-2154, fifteen dollars.

6. Except as provided in paragraph 7 of this subsection, for the registration of a trailer or semitrailer that is ten thousand pounds or less gross vehicle weight, eight dollars, and for the registration of a trailer or semitrailer that exceeds ten thousand pounds gross vehicle weight:

(a) On initial registration, a one-time fee of two hundred forty-five dollars.

(b) On renewal of registration or if previously registered in another state, a one-time fee of:

(i) If the trailer's or semitrailer's model year is less than six years old, one hundred forty-five dollars.

(ii) If the trailer's or semitrailer's model year is at least six years old, ninety-five dollars.

7. For the registration of a noncommercial trailer that is not a travel trailer and that is less than six thousand pounds gross vehicle weight:

(a) On initial registration, a one-time fee of twenty dollars.

(b) On renewal of registration, a one-time fee of five dollars.

8. For a transfer of a noncommercial trailer that is not a travel trailer and that is less than six thousand pounds gross vehicle weight, twelve dollars.

9. For each special ninety day resident registration issued under section 28-2154, fifteen dollars.

10. For each one trip registration permit issued under section 28-2155, one dollar.

11. For each temporary general use registration issued under section 28-2156, fifteen dollars.

12. For each identification plate bearing a serial or identification number to be affixed to any vehicle, five dollars.

B. For the purposes of this section, "travel trailer" means a trailer that is:

1. Mounted on wheels.

2. Designed to provide temporary living quarters for recreational, camping or travel use.

3. Less than eight feet in width and less than forty feet in length.

Sec. 2. Section 28-2154, Arizona Revised Statutes, is amended to read:

28-2154. Special registrations

A. A nonresident who purchases an unregistered vehicle in this state for removal to the state of residence of the purchaser shall obtain a special ~~thirty~~ NINETY day nonresident registration permit for the vehicle. The nonresident shall obtain the special ~~thirty~~ NINETY day nonresident registration permit by applying to the department, to an authorized third party or to a motor vehicle dealer as defined in section 28-4301 and by paying the fees prescribed by section 28-2003. An affidavit in a form prescribed by the director shall accompany the application and shall contain the following statements:

1. The purchaser is not a resident of this state as defined in section 28-2001. For the purposes of this section and section 28-2154.01, the purchaser shall present to the department, an authorized third party or a motor vehicle dealer,— a driver license or other evidence prescribed by the director showing that the purchaser is not a resident of this state.

2. The vehicle is purchased to be registered out of state within ~~thirty~~ NINETY days after the issuance of the special ~~thirty~~ NINETY day nonresident registration permit.

3. The vehicle is not purchased for transfer to a resident of this state.

4. The purchaser is liable for any tax, penalty and interest that is due under title 42, chapter 5 if the purchaser registers the vehicle in this state within three hundred sixty-five days after the issuance of the special ~~thirty~~ NINETY day nonresident registration permit.

5. Other information that the director deems necessary.

B. At the time of application for a special ~~thirty~~ NINETY day nonresident registration permit, the purchaser shall submit for inspection proper evidence of ownership of the vehicle to be registered. The special ~~thirty~~ NINETY day nonresident registration permit is valid for not more than ~~thirty~~ NINETY days from the date of issuance and shall be in the form prescribed by the director. A person who obtains a special ~~thirty~~ NINETY day nonresident registration permit on a semitrailer that has been manufactured in this state may use the semitrailer for commercial purposes if the semitrailer is being used to transport goods from this state, subject to the payment of any taxes prescribed by this title.

1 C. An enrolled member of an Indian tribe who resides on the Indian
2 reservation established for that tribe and who purchases an unregistered
3 vehicle in this state for removal to the Indian reservation shall obtain a
4 special ~~thirty~~ NINETY day nonresident registration permit for the
5 vehicle. The member may obtain the special ~~thirty~~ NINETY day nonresident
6 registration permit by applying to the department, to an authorized third
7 party or to any motor vehicle dealer as defined by section 28-4301 and by
8 payment of the fees prescribed by section 28-2003.

9 D. A resident who does not have complete documentation for issuance of
10 an Arizona title and registration on a noncommercial vehicle but who has
11 established ownership of the vehicle to the satisfaction of the department
12 may receive a special ninety day resident registration by applying and paying
13 the fee prescribed by section 28-2003 to the department. The basis of
14 assessment for the full annual registration fee and vehicle license tax
15 relates back to the date of issuance of the first special ninety day resident
16 registration.

17 E. A resident may receive a second consecutive special ninety day
18 resident registration on application and payment of the fee prescribed by
19 section 28-2003 if:

20 1. The person has applied for a bonded title and the title has not
21 been issued during the first ninety day registration.

22 2. The person is awaiting settlement of an estate.

23 3. The person is awaiting lien clearance.

24 4. The person is awaiting a hearing decision as a result of a title
25 complaint.

26 5. The person is awaiting the issuance of honorary consular official
27 special license plates.

28 6. The director determines other circumstances justify the issuance.

29 F. At the discretion of the director, a resident may receive more than
30 two consecutive special ninety day resident registrations for a vehicle in a
31 twelve month period.

32 G. If there is a judgment against a resident of this state in another
33 state that requires suspension of the resident's vehicle registration, in
34 lieu of suspension of the resident's vehicle registration the department may
35 issue a special temporary registration for the resident's vehicle that is
36 valid for a period of not more than one hundred eighty days.

37 Sec. 3. Section 28-2154.01, Arizona Revised Statutes, is amended to
38 read:

39 28-2154.01. Special ninety day nonresident registration
40 permits; procedures

41 A. A dealer or an authorized third party that issues a special ~~thirty~~
42 NINETY day nonresident registration permit pursuant to section 28-2154 shall
43 send an electronic record of the permit to the department through an
44 authorized third party or through the department's authorized third party
45 electronic service provider.

1 B. The department, an authorized third party or a dealer shall not:

2 1. Issue, assign or deliver a special ~~thirty~~ NINETY day nonresident
3 registration permit to any person other than a bona fide purchaser or
4 authorized representative of a bona fide purchaser of a vehicle who is not a
5 resident as defined in section 28-2001.

6 2. Issue a special ~~thirty~~ NINETY day nonresident registration permit
7 unless the purchaser files an affidavit as prescribed in section 28-2154 and
8 provides any other information required by the department of transportation
9 or the department of revenue.

10 3. Issue and affix, as prescribed in subsection C of this section, a
11 special ~~thirty~~ NINETY day nonresident registration permit unless the permit
12 is recorded in the electronic records of the department.

13 C. A person who issues a special ~~thirty~~ NINETY day nonresident
14 registration permit shall affix or insert, clearly and indelibly, on the face
15 of each permit the ~~date~~ DATES of issuance and expiration and the make and
16 vehicle identification number of the vehicle. The special ~~thirty~~ NINETY day
17 nonresident registration permit shall not bear the name or address of the
18 person who purchased the vehicle in a position that is legible from outside
19 of the vehicle.

20 D. A dealer or authorized third party who issues a special ~~thirty~~
21 NINETY day nonresident registration permit shall maintain a record, in a form
22 prescribed by the director, of all special ~~thirty~~ NINETY day nonresident
23 registration permits issued by the dealer or authorized third party and a
24 record of other information pertaining to the issuance of special ~~thirty~~
25 NINETY day nonresident registration permits that the department of
26 transportation or the department of revenue requires.

27 E. The dealer or authorized third party shall keep each record for at
28 least three years after the date of entry of the record.

29 F. A dealer or authorized third party shall allow the director of the
30 department of transportation or the director of the department of revenue
31 full and free access to the records during regular business hours.

32 G. The electronic record is written notice of the removal of the
33 vehicle from this state for use in the purchaser's state of residence and
34 relieves the dealer or authorized third party of liability in accordance with
35 section 42-5009.

36 H. If a purchaser registers the vehicle in this state within three
37 hundred sixty-five days after the issuance of the special ~~thirty~~ NINETY day
38 nonresident registration permit, the purchaser is liable in an amount equal
39 to any tax, penalty and interest that the motor vehicle dealer or authorized
40 third party would have been required to pay under title 42, chapter 5. At
41 the time of issuing the special ~~thirty~~ NINETY day nonresident registration
42 permit, a motor vehicle dealer or authorized third party shall inform the
43 purchaser of the liability described in this section.

44 I. The department of transportation and the department of revenue
45 shall jointly develop and prescribe forms for the motor vehicle dealer, the

1 authorized third party and the purchaser to complete for the proper
2 administration and enforcement of this section.

3 J. Compliance with this section and section 28-2154 allows delivery of
4 the vehicle to a nonresident purchaser in this state and retains the
5 applicable exemptions pursuant to section 42-5061, subsection A, paragraph
6 28.

7 Sec. 4. Section 42-5061, Arizona Revised Statutes, is amended to read:

8 42-5061. Retail classification; definitions

9 A. The retail classification is comprised of the business of selling
10 tangible personal property at retail. The tax base for the retail
11 classification is the gross proceeds of sales or gross income derived from
12 the business. The tax imposed on the retail classification does not apply to
13 the gross proceeds of sales or gross income from:

14 1. Professional or personal service occupations or businesses which
15 involve sales or transfers of tangible personal property only as
16 inconsequential elements.

17 2. Services rendered in addition to selling tangible personal property
18 at retail.

19 3. Sales of warranty or service contracts. The storage, use or
20 consumption of tangible personal property provided under the conditions of
21 such contracts is subject to tax under section 42-5156.

22 4. Sales of tangible personal property by any nonprofit organization
23 organized and operated exclusively for charitable purposes and recognized by
24 the United States internal revenue service under section 501(c)(3) of the
25 internal revenue code.

26 5. Sales to persons engaged in business classified under the
27 restaurant classification of articles used by human beings for food, drink or
28 condiment, whether simple, mixed or compounded.

29 6. Business activity which is properly included in any other business
30 classification which is taxable under article 1 of this chapter.

31 7. The sale of stocks and bonds.

32 8. Drugs and medical oxygen, including delivery hose, mask or tent,
33 regulator and tank, on the prescription of a member of the medical, dental or
34 veterinarian profession who is licensed by law to administer such substances.

35 9. Prosthetic appliances as defined in section 23-501 prescribed or
36 recommended by a health professional licensed pursuant to title 32, chapter
37 7, 8, 11, 13, 14, 15, 16, 17 or 29.

38 10. Insulin, insulin syringes and glucose test strips.

39 11. Prescription eyeglasses or contact lenses.

40 12. Hearing aids as defined in section 36-1901.

41 13. Durable medical equipment which has a centers for medicare and
42 medicaid services common procedure code, is designated reimbursable by
43 medicare, is prescribed by a person who is licensed under title 32, chapter
44 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and
45 customarily used to serve a medical purpose, is generally not useful to a

1 person in the absence of illness or injury and is appropriate for use in the
2 home.

3 14. Sales to nonresidents of this state for use outside this state if
4 the vendor ships or delivers the tangible personal property out of this
5 state.

6 15. Food, as provided in and subject to the conditions of article 3 of
7 this chapter and section 42-5074.

8 16. Items purchased with United States department of agriculture food
9 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
10 958) or food instruments issued under section 17 of the child nutrition act
11 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
12 section 1786).

13 17. Textbooks by any bookstore that are required by any state
14 university or community college.

15 18. Food and drink to a person who is engaged in business which is
16 classified under the restaurant classification and which provides such food
17 and drink without monetary charge to its employees for their own consumption
18 on the premises during the employees' hours of employment.

19 19. Articles of food, drink or condiment and accessory tangible
20 personal property to a school district if such articles and accessory
21 tangible personal property are to be prepared and served to persons for
22 consumption on the premises of a public school within the district during
23 school hours.

24 20. Lottery tickets or shares pursuant to title 5, chapter 5,
25 article 1.

26 21. The sale of precious metal bullion and monetized bullion to the
27 ultimate consumer, but the sale of coins or other forms of money for
28 manufacture into jewelry or works of art is subject to the tax. ~~IN~~ FOR THE
29 PURPOSES OF this paragraph:

30 (a) "Monetized bullion" means coins and other forms of money which are
31 manufactured from gold, silver or other metals and which have been or are
32 used as a medium of exchange in this or another state, the United States or a
33 foreign nation.

34 (b) "Precious metal bullion" means precious metal, including gold,
35 silver, platinum, rhodium and palladium, which has been smelted or refined so
36 that its value depends on its contents and not on its form.

37 22. Motor vehicle fuel and use fuel which are subject to a tax imposed
38 under title 28, chapter 16, article 1, sales of use fuel to a holder of a
39 valid single trip use fuel tax permit issued under section 28-5739, sales of
40 aviation fuel which are subject to the tax imposed under section 28-8344 and
41 sales of jet fuel which are subject to the tax imposed under article 8 of
42 this chapter.

43 23. Tangible personal property sold to a person engaged in the business
44 of leasing or renting such property under the personal property rental
45 classification if such property is to be leased or rented by such person.

1 24. Tangible personal property sold in interstate or foreign commerce
2 if prohibited from being so taxed by the Constitution of the United States or
3 the constitution of this state.

4 25. Tangible personal property sold to:

5 (a) A qualifying hospital as defined in section 42-5001.

6 (b) A qualifying health care organization as defined in section
7 42-5001 if the tangible personal property is used by the organization solely
8 to provide health and medical related educational and charitable services.

9 (c) A qualifying health care organization as defined in section
10 42-5001 if the organization is dedicated to providing educational,
11 therapeutic, rehabilitative and family medical education training for blind,
12 visually impaired and multihandicapped children from the time of birth to age
13 twenty-one.

14 (d) A qualifying community health center as defined in section
15 42-5001.

16 (e) A nonprofit charitable organization that has qualified under
17 section 501(c)(3) of the internal revenue code and that regularly serves
18 meals to the needy and indigent on a continuing basis at no cost.

19 (f) For taxable periods beginning from and after June 30, 2001, a
20 nonprofit charitable organization that has qualified under section 501(c)(3)
21 of the internal revenue code and that provides residential apartment housing
22 for low income persons over sixty-two years of age in a facility that
23 qualifies for a federal housing subsidy, if the tangible personal property is
24 used by the organization solely to provide residential apartment housing for
25 low income persons over sixty-two years of age in a facility that qualifies
26 for a federal housing subsidy.

27 26. Magazines or other periodicals or other publications by this state
28 to encourage tourist travel.

29 27. Tangible personal property sold to a person that is subject to tax
30 under this article by reason of being engaged in business classified under
31 the prime contracting classification under section 42-5075, or to a
32 subcontractor working under the control of a prime contractor that is subject
33 to tax under article 1 of this chapter, if the property so sold is any of the
34 following:

35 (a) Incorporated or fabricated by the person into any real property,
36 structure, project, development or improvement as part of the business.

37 (b) Used in environmental response or remediation activities under
38 section 42-5075, subsection B, paragraph 6.

39 (c) Incorporated or fabricated by the person into any lake facility
40 development in a commercial enhancement reuse district under conditions
41 prescribed for the deduction allowed by section 42-5075, subsection B,
42 paragraph 8.

43 28. The sale of a motor vehicle to:

44 (a) A nonresident of this state if the purchaser's state of residence
45 does not allow a corresponding use tax exemption to the tax imposed by

1 article 1 of this chapter and if the nonresident has secured a special thirty
2 NINETY day nonresident registration permit for the vehicle as prescribed by
3 sections 28-2154 and 28-2154.01.

4 (b) An enrolled member of an Indian tribe who resides on the Indian
5 reservation established for that tribe.

6 29. Tangible personal property purchased in this state by a nonprofit
7 charitable organization that has qualified under section 501(c)(3) of the
8 United States internal revenue code and that engages in and uses such
9 property exclusively in programs for mentally or physically handicapped
10 persons if the programs are exclusively for training, job placement,
11 rehabilitation or testing.

12 30. Sales of tangible personal property by a nonprofit organization
13 that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6)
14 of the internal revenue code if the organization is associated with a major
15 league baseball team or a national touring professional golfing association
16 and no part of the organization's net earnings inures to the benefit of any
17 private shareholder or individual.

18 31. Sales of commodities, as defined by title 7 United States Code
19 section 2, that are consigned for resale in a warehouse in this state in or
20 from which the commodity is deliverable on a contract for future delivery
21 subject to the rules of a commodity market regulated by the United States
22 commodity futures trading commission.

23 32. Sales of tangible personal property by a nonprofit organization
24 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),
25 501(c)(7) or 501(c)(8) of the internal revenue code if the organization
26 sponsors or operates a rodeo featuring primarily farm and ranch animals and
27 no part of the organization's net earnings inures to the benefit of any
28 private shareholder or individual.

29 33. Sales of seeds, seedlings, roots, bulbs, cuttings and other
30 propagative material to persons who use those items to commercially produce
31 agricultural, horticultural, viticultural or floricultural crops in this
32 state.

33 34. Machinery, equipment, technology or related supplies that are only
34 useful to assist a person who is physically disabled as defined in section
35 46-191, has a developmental disability as defined in section 36-551 or has a
36 head injury as defined in section 41-3201 to be more independent and
37 functional.

38 35. Sales of tangible personal property that is shipped or delivered
39 directly to a destination outside the United States for use in that foreign
40 country.

41 36. Sales of natural gas or liquefied petroleum gas used to propel a
42 motor vehicle.

43 37. Paper machine clothing, such as forming fabrics and dryer felts,
44 sold to a paper manufacturer and directly used or consumed in paper
45 manufacturing.

38. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity sold to a qualified environmental technology manufacturer, producer or processor as defined in section 41-1514.02 and directly used or consumed in the generation or provision of on-site power or energy solely for environmental technology manufacturing, producing or processing or environmental protection. This paragraph shall apply for fifteen full consecutive calendar or fiscal years from the date the first paper manufacturing machine is placed in service. In the case of an environmental technology manufacturer, producer or processor who does not manufacture paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service.

39. Sales of liquid, solid or gaseous chemicals used in manufacturing, processing, fabricating, mining, refining, metallurgical operations, research and development and, beginning on January 1, 1999, printing, if using or consuming the chemicals, alone or as part of an integrated system of chemicals, involves direct contact with the materials from which the product is produced for the purpose of causing or permitting a chemical or physical change to occur in the materials as part of the production process. This paragraph does not include chemicals that are used or consumed in activities such as packaging, storage or transportation but does not affect any deduction for such chemicals that is otherwise provided by this section. For THE purposes of this paragraph, "printing" means a commercial printing operation and includes job printing, engraving, embossing, copying and bookbinding.

40. Through December 31, 1994, personal property liquidation transactions, conducted by a personal property liquidator. From and after December 31, 1994, personal property liquidation transactions shall be taxable under this section provided that nothing in this subsection shall be construed to authorize the taxation of casual activities or transactions under this chapter. ~~IN~~ FOR THE PURPOSES OF this paragraph:

(a) "Personal property liquidation transaction" means a sale of personal property made by a personal property liquidator acting solely on behalf of the owner of the personal property sold at the dwelling of the owner or upon the death of any owner, on behalf of the surviving spouse, if any, any devisee or heir or the personal representative of the estate of the deceased, if one has been appointed.

(b) "Personal property liquidator" means a person who is retained to conduct a sale in a personal property liquidation transaction.

41. Sales of food, drink and condiment for consumption within the premises of any prison, jail or other institution under the jurisdiction of the state department of corrections, the department of public safety, the department of juvenile corrections or a county sheriff.

42. A motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle sold to a motor

1 carrier who is subject to a fee prescribed in title 28, chapter 16, article 4
2 and who is engaged in the business of leasing or renting such property.

3 43. Livestock and poultry feed, salts, vitamins and other additives for
4 livestock or poultry consumption that are sold to persons who are engaged in
5 producing livestock, poultry, or livestock or poultry products or who are
6 engaged in feeding livestock or poultry commercially. For THE purposes of
7 this paragraph, "poultry" includes ratites.

8 44. Sales of implants used as growth promotants and injectable
9 medicines, not already exempt under paragraph 8 of this subsection, for
10 livestock or poultry owned by or in possession of persons who are engaged in
11 producing livestock, poultry, or livestock or poultry products or who are
12 engaged in feeding livestock or poultry commercially. For THE purposes of
13 this paragraph, "poultry" includes ratites.

14 45. Sales of motor vehicles at auction to nonresidents of this state
15 for use outside this state if the vehicles are shipped or delivered out of
16 this state, regardless of where title to the motor vehicles passes or its
17 free on board point.

18 46. Tangible personal property sold to a person engaged in business and
19 subject to tax under the transient lodging classification if the tangible
20 personal property is a personal hygiene item or articles used by human beings
21 for food, drink or condiment, except alcoholic beverages, which are furnished
22 without additional charge to and intended to be consumed by the transient
23 during the transient's occupancy.

24 47. Sales of alternative fuel, as defined in section 1-215, to a used
25 oil fuel burner who has received a permit to burn used oil or used oil fuel
26 under section 49-426 or 49-480.

27 48. Sales of materials that are purchased by or for publicly funded
28 libraries including school district libraries, charter school libraries,
29 community college libraries, state university libraries or federal, state,
30 county or municipal libraries for use by the public as follows:

31 (a) Printed or photographic materials, beginning August 7, 1985.

32 (b) Electronic or digital media materials, beginning July 17, 1994.

33 49. Tangible personal property sold to a commercial airline and
34 consisting of food, beverages and condiments and accessories used for serving
35 the food and beverages, if those items are to be provided without additional
36 charge to passengers for consumption in flight. For THE purposes of this
37 paragraph, "commercial airline" means a person holding a federal certificate
38 of public convenience and necessity or foreign air carrier permit for air
39 transportation to transport persons, property or United States mail in
40 intrastate, interstate or foreign commerce.

41 50. Sales of alternative fuel vehicles if the vehicle was manufactured
42 as a diesel fuel vehicle and converted to operate on alternative fuel and
43 equipment that is installed in a conventional diesel fuel motor vehicle to
44 convert the vehicle to operate on an alternative fuel, as defined in section
45 1-215.

1 51. Sales of any spirituous, vinous or malt liquor by a person that is
2 licensed in this state as a wholesaler by the department of liquor licenses
3 and control pursuant to title 4, chapter 2, article 1.

4 52. Sales of tangible personal property to be incorporated or installed
5 as part of environmental response or remediation activities under section
6 42-5075, subsection B, paragraph 6.

7 53. Sales of tangible personal property by a nonprofit organization
8 that is exempt from taxation under section 501(c)(6) of the internal revenue
9 code if the organization produces, organizes or promotes cultural or civic
10 related festivals or events and no part of the organization's net earnings
11 inures to the benefit of any private shareholder or individual.

12 B. In addition to the deductions from the tax base prescribed by
13 subsection A of this section, the gross proceeds of sales or gross income
14 derived from sales of the following categories of tangible personal property
15 shall be deducted from the tax base:

16 1. Machinery, or equipment, used directly in manufacturing,
17 processing, fabricating, job printing, refining or metallurgical
18 operations. The terms "manufacturing", "processing", "fabricating", "job
19 printing", "refining" and "metallurgical" as used in this paragraph refer to
20 and include those operations commonly understood within their ordinary
21 meaning. "Metallurgical operations" includes leaching, milling,
22 precipitating, smelting and refining.

23 2. Mining machinery, or equipment, used directly in the process of
24 extracting ores or minerals from the earth for commercial purposes, including
25 equipment required to prepare the materials for extraction and handling,
26 loading or transporting such extracted material to the surface. "Mining"
27 includes underground, surface and open pit operations for extracting ores and
28 minerals.

29 3. Tangible personal property sold to persons engaged in business
30 classified under the telecommunications classification and consisting of
31 central office switching equipment, switchboards, private branch exchange
32 equipment, microwave radio equipment and carrier equipment including optical
33 fiber, coaxial cable and other transmission media which are components of
34 carrier systems.

35 4. Machinery, equipment or transmission lines used directly in
36 producing or transmitting electrical power, but not including
37 distribution. Transformers and control equipment used at transmission
38 substation sites constitute equipment used in producing or transmitting
39 electrical power.

40 5. Neat animals, horses, asses, sheep, ratites, swine or goats used or
41 to be used as breeding or production stock, including sales of breedings or
42 ownership shares in such animals used for breeding or production.

43 6. Pipes or valves four inches in diameter or larger used to transport
44 oil, natural gas, artificial gas, water or coal slurry, including compressor

1 units, regulators, machinery and equipment, fittings, seals and any other
2 part that is used in operating the pipes or valves.

3 7. Aircraft, navigational and communication instruments and other
4 accessories and related equipment sold to:

5 (a) A person holding a federal certificate of public convenience and
6 necessity, a supplemental air carrier certificate under federal aviation
7 regulations (14 Code of Federal Regulations part 121) or a foreign air
8 carrier permit for air transportation for use as or in conjunction with or
9 becoming a part of aircraft to be used to transport persons, property or
10 United States mail in intrastate, interstate or foreign commerce.

11 (b) Any foreign government for use by such government outside of this
12 state.

13 (c) Persons who are not residents of this state and who will not use
14 such property in this state other than in removing such property from this
15 state. This subdivision also applies to corporations that are not
16 incorporated in this state, regardless of maintaining a place of business in
17 this state, if the principal corporate office is located outside this state
18 and the property will not be used in this state other than in removing the
19 property from this state.

20 8. Machinery, tools, equipment and related supplies used or consumed
21 directly in repairing, remodeling or maintaining aircraft, aircraft engines
22 or aircraft component parts by or on behalf of a certificated or licensed
23 carrier of persons or property.

24 9. Railroad rolling stock, rails, ties and signal control equipment
25 used directly to transport persons or property.

26 10. Machinery or equipment used directly to drill for oil or gas or
27 used directly in the process of extracting oil or gas from the earth for
28 commercial purposes.

29 11. Buses or other urban mass transit vehicles which are used directly
30 to transport persons or property for hire or pursuant to a governmentally
31 adopted and controlled urban mass transportation program and which are sold
32 to bus companies holding a federal certificate of convenience and necessity
33 or operated by any city, town or other governmental entity or by any person
34 contracting with such governmental entity as part of a governmentally adopted
35 and controlled program to provide urban mass transportation.

36 12. Groundwater measuring devices required under section 45-604.

37 13. New machinery and equipment consisting of tractors, tractor-drawn
38 implements, self-powered implements, machinery and equipment necessary for
39 extracting milk, and machinery and equipment necessary for cooling milk and
40 livestock, and drip irrigation lines not already exempt under paragraph 6 of
41 this subsection and that are used for commercial production of agricultural,
42 horticultural, viticultural and floricultural crops and products in this
43 state. ~~In~~ FOR THE PURPOSES OF this paragraph:

1 (a) "New machinery and equipment" means machinery and equipment which
2 have never been sold at retail except pursuant to leases or rentals which do
3 not total two years or more.

4 (b) "Self-powered implements" includes machinery and equipment that
5 are electric-powered.

6 14. Machinery or equipment used in research and development. ~~In~~ FOR
7 THE PURPOSES OF this paragraph, "research and development" means basic and
8 applied research in the sciences and engineering, and designing, developing
9 or testing prototypes, processes or new products, including research and
10 development of computer software that is embedded in or an integral part of
11 the prototype or new product or that is required for machinery or equipment
12 otherwise exempt under this section to function effectively. Research and
13 development do not include manufacturing quality control, routine consumer
14 product testing, market research, sales promotion, sales service, research in
15 social sciences or psychology, computer software research that is not
16 included in the definition of research and development, or other
17 nontechnological activities or technical services.

18 15. Machinery and equipment that are purchased by or on behalf of the
19 owners of a soundstage complex and primarily used for motion picture,
20 multimedia or interactive video production in the complex. This paragraph
21 applies only if the initial construction of the soundstage complex begins
22 after June 30, 1996 and before January 1, 2002 and the machinery and
23 equipment are purchased before the expiration of five years after the start
24 of initial construction. For THE purposes of this paragraph:

25 (a) "Motion picture, multimedia or interactive video production"
26 includes products for theatrical and television release, educational
27 presentations, electronic retailing, documentaries, music videos, industrial
28 films, CD-ROM, video game production, commercial advertising and television
29 episode production and other genres that are introduced through developing
30 technology.

31 (b) "Soundstage complex" means a facility of multiple stages including
32 production offices, construction shops and related areas, prop and costume
33 shops, storage areas, parking for production vehicles and areas that are
34 leased to businesses that complement the production needs and orientation of
35 the overall facility.

36 16. Tangible personal property that is used by either of the following
37 to receive, store, convert, produce, generate, decode, encode, control or
38 transmit telecommunications information:

39 (a) Any direct broadcast satellite television or data transmission
40 service that operates pursuant to 47 Code of Federal Regulations parts 25 and
41 100.

42 (b) Any satellite television or data transmission facility, if both of
43 the following conditions are met:

44 (i) Over two-thirds of the transmissions, measured in megabytes,
45 transmitted by the facility during the test period were transmitted to or on

1 behalf of one or more direct broadcast satellite television or data
2 transmission services that operate pursuant to 47 Code of Federal Regulations
3 parts 25 and 100.

4 (ii) Over two-thirds of the transmissions, measured in megabytes,
5 transmitted by or on behalf of those direct broadcast television or data
6 transmission services during the test period were transmitted by the facility
7 to or on behalf of those services.

8 For THE purposes of subdivision (b) of this paragraph, "test period" means
9 the three hundred sixty-five day period beginning on the later of the date on
10 which the tangible personal property is purchased or the date on which the
11 direct broadcast satellite television or data transmission service first
12 transmits information to its customers.

13 17. Clean rooms that are used for manufacturing, processing,
14 fabrication or research and development, as defined in paragraph 14 of this
15 subsection, of semiconductor products. For THE purposes of this paragraph,
16 "clean room" means all property that comprises or creates an environment
17 where humidity, temperature, particulate matter and contamination are
18 precisely controlled within specified parameters, without regard to whether
19 the property is actually contained within that environment or whether any of
20 the property is affixed to or incorporated into real property. Clean room:

21 (a) Includes the integrated systems, fixtures, piping, movable
22 partitions, lighting and all property that is necessary or adapted to reduce
23 contamination or to control airflow, temperature, humidity, chemical purity
24 or other environmental conditions or manufacturing tolerances, as well as the
25 production machinery and equipment operating in conjunction with the clean
26 room environment.

27 (b) Does not include the building or other permanent, nonremovable
28 component of the building that houses the clean room environment.

29 18. Machinery and equipment used directly in the feeding of poultry,
30 the environmental control of housing for poultry, the movement of eggs within
31 a production and packaging facility or the sorting or cooling of eggs. This
32 exemption does not apply to vehicles used for transporting eggs.

33 19. Machinery or equipment, including related structural components,
34 that is employed in connection with manufacturing, processing, fabricating,
35 job printing, refining, mining, natural gas pipelines, metallurgical
36 operations, telecommunications, producing or transmitting electricity or
37 research and development and that is used directly to meet or exceed rules or
38 regulations adopted by the federal energy regulatory commission, the United
39 States environmental protection agency, the United States nuclear regulatory
40 commission, the Arizona department of environmental quality or a political
41 subdivision of this state to prevent, monitor, control or reduce land, water
42 or air pollution.

43 20. Machinery and equipment that are sold to a person engaged in the
44 commercial production of livestock, livestock products or agricultural,
45 horticultural, viticultural or floricultural crops or products in this state

1 and that are used directly and primarily to prevent, monitor, control or
2 reduce air, water or land pollution.

3 21. Machinery or equipment that enables a television station to
4 originate and broadcast or to receive and broadcast digital television
5 signals and that was purchased to facilitate compliance with the
6 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States
7 Code section 336) and the federal communications commission order issued
8 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does
9 not exempt any of the following:

10 (a) Repair or replacement parts purchased for the machinery or
11 equipment described in this paragraph.

12 (b) Machinery or equipment purchased to replace machinery or equipment
13 for which an exemption was previously claimed and taken under this paragraph.

14 (c) Any machinery or equipment purchased after the television station
15 has ceased analog broadcasting, or purchased after November 1, 2009,
16 whichever occurs first.

17 22. Qualifying equipment that is purchased from and after June 30, 2004
18 through June 30, 2014 by a qualified business for harvesting, transporting or
19 the initial processing of forest products, including biomass, as provided in
20 section 41-1516. To qualify for this deduction, the qualified business at
21 the time of purchase must present its certification approved by the
22 department.

23 C. The deductions provided by subsection B of this section do not
24 include sales of:

25 1. Expendable materials. For THE purposes of this paragraph,
26 expendable materials do not include any of the categories of tangible
27 personal property specified in subsection B of this section regardless of the
28 cost or useful life of that property.

29 2. Janitorial equipment and hand tools.

30 3. Office equipment, furniture and supplies.

31 4. Tangible personal property used in selling or distributing
32 activities, other than the telecommunications transmissions described in
33 subsection B, paragraph 16 of this section.

34 5. Motor vehicles required to be licensed by this state, except buses
35 or other urban mass transit vehicles specifically exempted pursuant to
36 subsection B, paragraph 11 of this section, without regard to the use of such
37 motor vehicles.

38 6. Shops, buildings, docks, depots and all other materials of whatever
39 kind or character not specifically included as exempt.

40 7. Motors and pumps used in drip irrigation systems.

41 D. In addition to the deductions from the tax base prescribed by
42 subsection A of this section, there shall be deducted from the tax base the
43 gross proceeds of sales or gross income derived from sales of machinery,
44 equipment, materials and other tangible personal property used directly and
45 predominantly to construct a qualified environmental technology

1 manufacturing, producing or processing facility as described in section
2 41-1514.02. This subsection applies for ten full consecutive calendar or
3 fiscal years after the start of initial construction.

4 E. In computing the tax base, gross proceeds of sales or gross income
5 from retail sales of heavy trucks and trailers does not include any amount
6 attributable to federal excise taxes imposed by 26 United States Code section
7 4051.

8 F. In computing the tax base, gross proceeds of sales or gross income
9 from the sale of use fuel, as defined in section 28-5601, does not include
10 any amount attributable to federal excise taxes imposed by 26 United States
11 Code section 4091.

12 G. If a person is engaged in an occupation or business to which
13 subsection A of this section applies, the person's books shall be kept so as
14 to show separately the gross proceeds of sales of tangible personal property
15 and the gross income from sales of services, and if not so kept the tax shall
16 be imposed on the total of the person's gross proceeds of sales of tangible
17 personal property and gross income from services.

18 H. If a person is engaged in the business of selling tangible personal
19 property at both wholesale and retail, the tax under this section applies
20 only to the gross proceeds of the sales made other than at wholesale if the
21 person's books are kept so as to show separately the gross proceeds of sales
22 of each class, and if the books are not so kept, the tax under this section
23 applies to the gross proceeds of every sale so made.

24 I. A person who engages in manufacturing, baling, crating, boxing,
25 barreling, canning, bottling, sacking, preserving, processing or otherwise
26 preparing for sale or commercial use any livestock, agricultural or
27 horticultural product or any other product, article, substance or commodity
28 and who sells the product of such business at retail in this state is deemed,
29 as to such sales, to be engaged in business classified under the retail
30 classification. This subsection does not apply to businesses classified
31 under the:

- 32 1. Transporting classification.
- 33 2. Utilities classification.
- 34 3. Telecommunications classification.
- 35 4. Pipeline classification.
- 36 5. Private car line classification.
- 37 6. Publication classification.
- 38 7. Job printing classification.
- 39 8. Prime contracting classification.
- 40 9. Owner builder sales classification.
- 41 10. Restaurant classification.

42 J. The gross proceeds of sales or gross income derived from the
43 following shall be deducted from the tax base for the retail classification:

- 44 1. Sales made directly to the United States government or its
45 departments or agencies by a manufacturer, modifier, assembler or repairer.

1 2. Sales made directly to a manufacturer, modifier, assembler or
2 repairer if such sales are of any ingredient or component part of products
3 sold directly to the United States government or its departments or agencies
4 by the manufacturer, modifier, assembler or repairer.

5 3. Overhead materials or other tangible personal property that is used
6 in performing a contract between the United States government and a
7 manufacturer, modifier, assembler or repairer, including property used in
8 performing a subcontract with a government contractor who is a manufacturer,
9 modifier, assembler or repairer, to which title passes to the government
10 under the terms of the contract or subcontract.

11 4. Sales of overhead materials or other tangible personal property to
12 a manufacturer, modifier, assembler or repairer if the gross proceeds of
13 sales or gross income derived from the property by the manufacturer,
14 modifier, assembler or repairer will be exempt under paragraph 3 of this
15 subsection.

16 K. There shall be deducted from the tax base fifty per cent of the
17 gross proceeds or gross income from any sale of tangible personal property
18 made directly to the United States government or its departments or agencies,
19 which is not deducted under subsection J of this section.

20 L. The department shall require every person claiming a deduction
21 provided by subsection J or K of this section to file on forms prescribed by
22 the department at such times as the department directs a sworn statement
23 disclosing the name of the purchaser and the exact amount of sales on which
24 the exclusion or deduction is claimed.

25 M. In computing the tax base, gross proceeds of sales or gross income
26 does not include:

27 1. A manufacturer's cash rebate on the sales price of a motor vehicle
28 if the buyer assigns the buyer's right in the rebate to the retailer.

29 2. The waste tire disposal fee imposed pursuant to section 44-1302.

30 N. There shall be deducted from the tax base the amount received from
31 sales of solar energy devices, but the deduction shall not exceed five
32 thousand dollars for each solar energy device. Before deducting any amount
33 under this subsection, the retailer shall register with the department as a
34 solar energy retailer. By registering, the retailer acknowledges that it
35 will make its books and records relating to sales of solar energy devices
36 available to the department for examination.

37 O. In computing the tax base in the case of the sale or transfer of
38 wireless telecommunications equipment as an inducement to a customer to enter
39 into or continue a contract for telecommunications services that are taxable
40 under section 42-5064, gross proceeds of sales or gross income does not
41 include any sales commissions or other compensation received by the retailer
42 as a result of the customer entering into or continuing a contract for the
43 telecommunications services.

1 P. For the purposes of this section, a sale of wireless
2 telecommunications equipment to a person who holds the equipment for sale or
3 transfer to a customer as an inducement to enter into or continue a contract
4 for telecommunications services that are taxable under section 42-5064 is
5 considered to be a sale for resale in the regular course of business.

6 Q. Retail sales of prepaid calling cards or prepaid authorization
7 numbers for telecommunications services, including sales of reauthorization
8 of a prepaid card or authorization number, are subject to tax under this
9 section.

10 R. For the purposes of this section, the diversion of gas from a
11 pipeline by a person engaged in the business of operating a natural or
12 artificial gas pipeline, for the sole purpose of fueling compressor equipment
13 to pressurize the pipeline, is not a sale of the gas to the operator of the
14 pipeline.

15 S. If a seller is entitled to a deduction pursuant to subsection B,
16 paragraph 16, subdivision (b) of this section, the department may require the
17 purchaser to establish that the requirements of subsection B, paragraph 16,
18 subdivision (b) of this section have been satisfied. If the purchaser cannot
19 establish that the requirements of subsection B, paragraph 16, subdivision
20 (b) of this section have been satisfied, the purchaser is liable in an amount
21 equal to any tax, penalty and interest which the seller would have been
22 required to pay under article 1 of this chapter if the seller had not made a
23 deduction pursuant to subsection B, paragraph 16, subdivision (b) of this
24 section. Payment of the amount under this subsection exempts the purchaser
25 from liability for any tax imposed under article 4 of this chapter and
26 related to the tangible personal property purchased. The amount shall be
27 treated as transaction privilege tax to the purchaser and as tax revenues
28 collected from the seller to designate the distribution base pursuant to
29 section 42-5029.

30 T. For THE purposes of section 42-5032.01, the department shall
31 separately account for revenues collected under the retail classification
32 from businesses selling tangible personal property at retail:

33 1. On the premises of a multipurpose facility that is owned, leased or
34 operated by the tourism and sports authority pursuant to title 5, chapter 8.

35 2. At professional football contests that are held in a stadium
36 located on the campus of an institution under the jurisdiction of the Arizona
37 board of regents.

38 U. In computing the tax base for the sale of a motor vehicle to a
39 nonresident of this state, if the purchaser's state of residence allows a
40 corresponding use tax exemption to the tax imposed by article 1 of this
41 chapter and the rate of the tax in the purchaser's state of residence is
42 lower than the rate prescribed in article 1 of this chapter, and the
43 nonresident has secured a special ~~thirty~~ NINETY day nonresident registration
44 permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01,
45 there shall be deducted from the tax base a portion of the gross proceeds or

gross income from the sale so that the amount of transaction privilege tax that is paid in this state is equal to the excise tax that is imposed by the purchaser's state of residence on the nonexempt sale or use of the motor vehicle.

V. For the purposes of this section:

1. "Aircraft" includes:

(a) An airplane flight simulator that is approved by the federal aviation administration for use as a phase II or higher flight simulator under appendix H, 14 Code of Federal Regulations part 121.

(b) Tangible personal property that is permanently affixed or attached as a component part of an aircraft that is owned or operated by a certificated or licensed carrier of persons or property.

2. "Other accessories and related equipment" includes aircraft accessories and equipment such as ground service equipment that physically contact aircraft at some point during the overall carrier operation.

3. "Selling at retail" means a sale for any purpose other than for resale in the regular course of business in the form of tangible personal property, but transfer of possession, lease and rental as used in the definition of sale mean only such transactions as are found on investigation to be in lieu of sales as defined without the words lease or rental.

W. For THE purposes of subsection J of this section:

1. "Assembler" means a person who unites or combines products, wares or articles of manufacture so as to produce a change in form or substance without changing or altering the component parts.

2. "Manufacturer" means a person who is principally engaged in the fabrication, production or manufacture of products, wares or articles for use from raw or prepared materials, imparting to those materials new forms, qualities, properties and combinations.

3. "Modifier" means a person who reworks, changes or adds to products, wares or articles of manufacture.

4. "Overhead materials" means tangible personal property, the gross proceeds of sales or gross income derived from which would otherwise be included in the retail classification, and which are used or consumed in the performance of a contract, the cost of which is charged to an overhead expense account and allocated to various contracts based upon generally accepted accounting principles and consistent with government contract accounting standards.

5. "Repairer" means a person who restores or renews products, wares or articles of manufacture.

1 6. "Subcontract" means an agreement between a contractor and any
2 person who is not an employee of the contractor for furnishing of supplies or
3 services that, in whole or in part, are necessary to the performance of one
4 or more government contracts, or under which any portion of the contractor's
5 obligation under one or more government contracts is performed, undertaken or
6 assumed and that includes provisions causing title to overhead materials or
7 other tangible personal property used in the performance of the subcontract
8 to pass to the government or that includes provisions incorporating such
9 title passing clauses in a government contract into the subcontract.

APPROVED BY THE GOVERNOR APRIL 14, 2005.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 14, 2005.

Passed the House February 14, 2005

Passed the Senate April 11, 2005

by the following vote: 59 Ayes,

by the following vote: 28 Ayes,

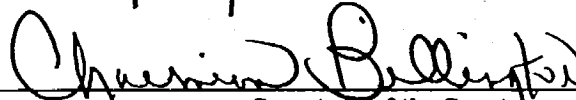
1 Nays, 0 Not Voting

0 Nays, 2 Not Voting


Speaker of the House


President of the Senate


Chief Clerk of the House

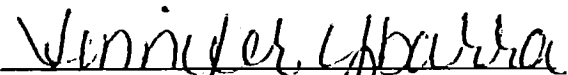

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

14th day of April, 2005

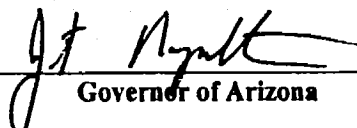
at 3:45 o'clock P. M.


Secretary to the Governor

Approved this 14 day of

April, 2005,

at 3⁴⁰ o'clock P. M.

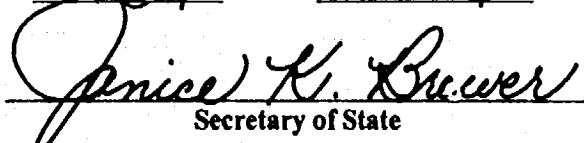

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 14 day of April, 2005

at 4:39 o'clock P. M.


Secretary of State